

MDR Tracking Number: M5-05-0893-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on November 16, 2004.

Per Rule 133.307(d)(1) dates of service 11/10/03 through 11/17/03 were not filed within one (1) year after the dates of service in dispute and is outside the jurisdiction of MDR.

The IRO reviewed CPT Codes 97213, 97140, 97032, 97110, and 97116 for dates of service 12/23/03 through 01/19/04 and 01/23/04 through 01/26/04 that were denied based upon "V".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

CPT Codes 97140 and 97110 for all dates of service review by the IRO and office visits for dates of service 12/23/04, 01/02/04, 01/16/04, and 01/26/04 only **were** found to be medically necessary. CPT Codes 97032 and 97116 and the remainder of the office visits were **not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for CPT Codes 97213, 97140, 97032, 97110, and 97116 for dates of service 12/23/03 through 01/19/04 and 01/23/04 through 01/26/04.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved.

On January 21, 2005, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

- CPT Code 97140 (15 units total) for dates of service 11/17/03 through 01/21/04. Neither party submitted EOBs. Per Rule 133.307(e)(2)(B) the requestor has not submitted convincing evidence of carrier receipt of the provider request for an EOB. Reimbursement is not recommended.
- CPT Code 97032 (16 units total) for dates of service 11/17/03 through 01/21/04. Neither party submitted EOBs. Per Rule 133.307(e)(2)(B) the requestor has not submitted convincing evidence of carrier receipt of the provider request for an EOB. Reimbursement is not recommended.
- CPT Code 97110 (11 units total) for dates of service 11/17/03 through 01/21/04. Neither party submitted EOBs. Per Rule 133.307(e)(2)(B) the requestor has not submitted convincing evidence of carrier receipt of the provider request for an EOB. Reimbursement is not recommended.
- CPT Code 97116 (14 units total) for dates of service 11/17/03 through 01/21/04. Neither party submitted EOBs. Per Rule 133.307(e)(2)(B) the requestor has not submitted convincing evidence of carrier receipt of the provider request for an EOB. Reimbursement is not recommended.
- CPT Code 99213 (15 units total) for dates of service 11/17/03 through 01/21/04. Neither party submitted EOBs. Per Rule 133.307(e)(2)(B) the requestor has not submitted convincing evidence of carrier receipt of the provider request for an EOB. Reimbursement is not recommended.

### **ORDER**

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus

all accrued interest due at the time of payment to the requestor within 20-days of receipt of this Order. This Order is applicable to dates of service 12/23/03 through 01/26/04 in this dispute.

This Order is hereby issued this 28<sup>th</sup> day of January 2005.

Marguerite Foster  
Medical Dispute Resolution Officer  
Medical Review Division

MF/mf

Enclosure: IRO decision

**MEDICAL REVIEW OF TEXAS**  
[IRO #5259]  
**3402 Vanshire Drive                      Austin, Texas 78738**  
**Phone: 512-402-1400                      FAX: 512-402-1012**

## NOTICE OF INDEPENDENT REVIEW DETERMINATION

**REVISED 1/24/05**

TWCC Case Number:	
MDR Tracking Number:	M5-05-0893-01
Name of Patient:	
Name of URA/Payer:	John T. Mai, DC
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician: (Treating or Requesting)	John T. Mai, DC

January 18, 2005

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All

available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

Sincerely,

Michael S. Lifshen, MD  
Medical Director

cc: Texas Workers Compensation Commission

#### CLINICAL HISTORY

Available documentation received and included for review consists of initial and treatment records from Dr. Khan (MD) from 06/03/03, Dr. Mai dating from 06/11/03, peer review reports (Parsons, MD and Braswell (DC), neurological consult 9/10/03 (Nguyen MD) pain management eval, and ESI surgical reports (Huynh, MD) designated doctor appointments 12/18/03 (Weiss, MD). Diagnostics include lumbar MRI 07/25/03, EMG 09/12/03 and FCE's 10/2/03 and 3/23/04.

\_\_\_\_, a 50-year-old male, was injured at work in June 2003 while working as an assembler for Goodman Manufacturing. He developed onset of back pain following lifting some pallets. He was initially seen at Concentra, and started physical therapy. He then changed to Dr. Mai, a chiropractor who initiated a conservative treatment régime consisting of spinal manipulation with and adjunctive physiotherapeutic modalities, myofascial release, exercise and gait training. MRI was obtained and revealed minimal bulging at the lower lumbar levels without any nerve root compromise. Electrodiagnostics were obtained

due to the persistence of some lateralizing complaints, these were indicative of left L5 radiculopathy. Pain management services were obtained and the patient underwent a series of three epidural injections to the lumbar spine by early 2004, followed by work hardening. A designated doctor's appointment placed the patient at MMI on 6/17/04 with a 10% whole person impairment.

#### REQUESTED SERVICE(S)

Medical necessity of office visits (99213), electrical stimulation (97032), manual therapy (97140), therapeutic exercises, (97110), gait training (97116) for dates of service 12/23/03 – 1/26/04.

#### DECISION

Approve manual therapy (97140) and therapeutic exercises (97110) for all service dates in dispute.

Approve office visits on 12/23/03, 1/2/04, 1/16/04, and 1/26/04 only.

Deny electrical stimulation (97032), gait training (97116) and all other office visits.

#### RATIONALE/BASIS FOR DECISION

*The standard of medical necessity in Workers Comp, according to the Texas labor code 408.021 (entitlement to medical benefits) is that an employee who sustained a compensable injury is entitled to all healthcare reasonably required by the nature of the injury as and when needed. The employee is specifically entitled to healthcare that: (1) cures or relieves the effects naturally resulting from the compensable injury; (2) promotes recovery; or (3) enhances the ability of the employee to return to or retain employment.*

This patient apparently sustained a lumbar sprain/strain injury involving some form of lumbar discopathy and concomitant radiculitis/radiculopathy. There some complexity to the case because of the patient's age. He had limited success with conservative intervention, and progressed to more aggressive pain management interventions in the form of epidural steroid injections. Accepted clinical protocols recommend concurrent therapeutic interventions in conjunction with ESI's, so it is appropriate for some form of conservative physical treatment even at a stage some six months post injury. Manual therapy

/ myofascial release (97140) is an appropriate form of intervention in conjunction exercises following epidural steroid injections.

The documentation in this case is somewhat suboptimal, with very few outcome measures documented, aside from subjective pain level recordings. Unfortunately, the treating records essentially consist solely of check marks outlining procedures performed without any objective information or detail of the procedures and their outcome. Documentation standards require this especially with respect to therapeutic exercises and gait training. As presented, the records are repetitious, contain minimally clinically useful information and do not show significant progress / substantive change in treatment. Unfortunately this provides precious little clinical insight as to the patient's status, his progression or improvement/response to care.

With respect to the E/M office visits, the patient was essentially participating in a focused post-ESI rehabilitation program for the service dates in dispute. There was no apparent requirement for ongoing E/M services to be provided outside of the exceptions noted above, and the documentation certainly does not support level of service billed for these dates.

There is no information on exactly what type of therapeutic activities were performed, or indication of any progression or effects of interventions. There is no documentation supporting the response to exercises performed in terms of duration, sets, reps, etc. that would normally accompany such an intensive program of care. Despite this lack of documentation, as there was only one unit of therapeutic exercises billed per treatment session and as active interventions are supported in conjunction with ESI's, the therapeutic exercises can be assumed to be medically necessary for this time frame.

The documentation does not tend to support the rationale for continuation of gait training or electrical stimulation in an unabated fashion at a point 6 months post injury.

The above analysis is based solely upon the medical records/tests submitted. It is assumed that the material provided is correct and complete in nature. If more information becomes available at a later date, an additional report may be requested. Such and may or may not change the opinions rendered in this evaluation.

Opinions are based upon a reasonable degree of medical probability and are totally independent of the requesting client.

**References:**

Hansen DT: Topics in Clinical Chiropractic, 1994, volume one, No. 4, December 1994, pp. 1-8 with the article "Back to Basics: Determining how much care to give and reporting patient progress".

Haldeman S., Chapman-Smith D, Peterson DM., eds. Guidelines for Chiropractic Quality Assurance and Practice Parameters, Aspen: Giathersburg, MD, 1993;

Souza T: Differential Diagnosis for a Chiropractor: Protocols and Algorithms, 1997; chapter 1, pp. 3-25.

Liebenson C. Commentary: Rehabilitation and chiropractic practice. JMPT 1996; 19(2):134140